STATE OF MICHIGAN

COURT OF APPEALS

MARION JENKINS TRUST,

Plaintiff-Appellant,

v

ELSIE SMITH,

Defendant-Appellee.

UNPUBLISHED
May 26, 2005

No. 252796
Chippewa Circuit Court
LC No. 03-006950-CH

Before: Murray, P.J., and O'Connell and Donofrio, JJ.

PER CURIAM.

In this property dispute, plaintiff appeals as of right from an order granting summary disposition in favor of defendant under MCR 2.116(C)(7), (8), and (10). We affirm.

In December 1957, Elsie and Gordon Smith conveyed certain real property to Aileen and Gerald Jenkins by warranty deed. Aileen preceded Gerald in death, and, in 1982, Gerald married Marion Jenkins. Gerald died in 1984, and the property came under the ownership of the Estate of Gerald Jenkins. In July 1997, Marion Jenkins, as the independent personal representative of Gerald's estate, conveyed the property by quitclaim deed to the Marion Jenkins Trust. In 2001, Marion Jenkins' neighbors brought a quiet title action against plaintiff trust. At issue was a twenty-two foot wide lane that ran between the parties' properties. A survey done earlier that year had shown that the lane lay on the Jenkins property. Following a bench trial, the trial court concluded that title in the lane rested with Marion Jenkins' neighbors by acquiescence. Thereafter, plaintiff filed a claim against defendant, alleging breach of the covenants of warranty and quiet enjoyment. Defendant moved for summary disposition, arguing that plaintiff's claims were barred by the statute of limitations, that plaintiff was never evicted from the property, and that plaintiff had taken title to the property by quitclaim deed. The trial court granted defendant's motion for summary disposition.

Plaintiff first argues that the trial court erred in considering arguments raised in defendant's motion for summary disposition because defendant's answer and affirmative defenses failed to comply with MCR 2.111. Specifically, plaintiff contends that defendant's answer and affirmative defenses did not comply with MCR 2.111 because they did not set forth the specific facts on which defendant would rely in making her defenses. We find this argument to be without merit.

MCR 2.111(D) provides that each denial in an answer must state "the substance of the matters on which the pleader will rely to support the denial." MCR 2.111(F)(3) provides that under a separate and distinct heading a party must state the facts constituting an affirmative defense. This Court has observed that "'[t]he primary function of a pleading is to give notice of the nature of the claim or defense sufficient to permit the opposite party to take a responsive position. *No pleading is insufficient, so far as facts are concerned, which serves this function.*'" *Hanon v Barber*, 99 Mich App 851, 856; 298 NW2d 866 (1980), quoting *Olson v Dahlen*, 3 Mich App 63, 71; 141 NW2d 702 (1966) (emphasis in original).

In *Hanon*, the plaintiff alleged that the defendant's affirmative defenses were defective because the defendant failed to state those facts on which the defendant would rely. *Id*. at 855. This Court concluded that even if the defendant's affirmative defenses failed to state the facts upon which the defendant would rely, the plaintiff had sufficient notice to permit him to take a responsive position. *Id*. at 856. Similarly, we also conclude in the instant case that defendant's statement of affirmative defenses was sufficient to permit plaintiff to take a responsive position. See *id.* Defendant included among her affirmative defenses each of the bases on which she sought summary disposition. Therefore, we conclude that defendant's pleadings were sufficient, and the trial court did not err in considering the arguments raised in defendant's motion for summary disposition.

Plaintiff next argues that the trial court erred by granting summary disposition in favor of defendant pursuant to MCR 2.116(C)(8) on the ground that plaintiff had no cause of action because it obtained title to the property by means of a quitclaim deed. Plaintiff asserts that Marion Jenkins is the heir and assignee of the grantee of the 1957 warranty deed, Gerald Jenkins, and that, therefore, it is irrelevant that plaintiff obtained title by quitclaim deed. We disagree.

We review de novo a trial court's grant or denial of summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). A motion under MCR 2.116(C)(8) tests the legal sufficiency of a claim by the pleadings alone. *Beaudrie v Henderson*, 465 Mich 124, 129; 631 NW2d 308 (2001). The purpose of such a motion is to test whether the plaintiff has stated a claim on which relief can be granted. *Id*. at 129-130. All factual allegations in support of the claim and the reasonable inferences arising therefrom are accepted as true and construed in the light most favorable to the nonmoving party. *Adair v State*, 470 Mich 105, 119; 680 NW2d 386 (2004). The motion should be granted only when the claim is so clearly unenforceable as a mater of law that no factual development could possibly justify recovery. *Id*.

A quitclaim deed conveys the grantor's right and title, but nothing more. *Doelle v Read*, 329 Mich 655, 657; 46 NW2d 422 (1951), citing *Bird v Stimson*, 197 Mich 582, 598; 164 NW 438 (1917). A quitclaim deed "neither warrants nor professes that the title is valid." Black's Law Dictionary (7th ed), p 424. Thus, in the absence of fraud on the grantor's part, a grantee of a quitclaim deed has no right of action for failure of title. *Cartier v Douville*, 98 Mich 22, 24-25; 56 NW 1045 (1893). Accordingly, because plaintiff trust took title by means of a quitclaim deed and does not allege fraud, plaintiff has no warranties to enforce.

Plaintiff argues, however, that because Marion Jenkins is the heir and assignee of Gerald Jenkins, grantee of the 1957 warranty deed, plaintiff is entitled to sue under the warranties contained in that deed. It is true that a warranty deed does provide warranty of title. *McCausey v Oliver*, 253 Mich App 703, 707; 660 NW2d 337 (2002). However, plaintiff's argument fails to

acknowledge that Marion Jenkins is a separate and distinct legal entity from the Marion Jenkins Trust. While the Jenkins estate could have sued to enforce the warranties made under the 1957 warranty deed, plaintiff could not because it acquired title to the property by quitclaim deed.[1]

Thus, because plaintiff's claims are so clearly unenforceable as a mater of law that no factual development could possibly justify recovery, the trial court did not err in granting defendant summary disposition pursuant to MCR 2.116(C)(8). *Adair*, *supra* at 119. Given our resolution of this issue, we need not consider plaintiff's remaining challenges to the trial court's grant of summary disposition. However, after reviewing the record, we conclude that summary disposition was also appropriate under MCR 2.116(C)(7) and (10).

We also reject plaintiff's argument that the trial court abused its discretion when it denied plaintiff's motion to amend its pleadings to add the Estate of Gerald Jenkins as a co-plaintiff. This Court reviews a trial court's decision to grant or deny a motion to amend pleadings for an abuse of discretion. *Lynch v Flex Technologies*, 463 Mich 578, 583; 624 NW2d 180 (2001). "If a court grants summary disposition pursuant to MCR 2.116(C)(8), (9), or (10), the court must give the parties an opportunity to amend their pleadings pursuant to MCR 2.118, unless the amendment would be futile." *Weymers v Khera*, 454 Mich 639, 658; 563 NW2d 647 (1997).

From the time the Estate of Gerald Jenkins conveyed title to the property by quitclaim deed, the estate no longer had any interest in the property. In order to have standing to bring suit, a party must have a "'legally protected interest that is in jeopardy of being adversely affected.'" *Bowie v Arder*, 441 Mich 23, 34; 490 NW2d 568 (1992), quoting *Tallman v Milton*, 192 Mich App 606, 612-613; 482 NW2d 187 (1992). Having a "personal stake" is not sufficient. *Id.* at 41. Rather, a party must have some "'real interest in the cause of action, or a legal or equitable right, title, or interest in the subject matter of the controversy.'" *Id.* at 42, quoting 59 Am Jur 2d, Parties, § 30, p 414. Thus, when the estate quitclaimed the property to plaintiff, the estate longer had any "real interest in the cause of action or a legal or equitable right, title or interest." *Id.* Accordingly, the trial court did not abuse its discretion in denying plaintiff's motion to amend its pleadings to add the estate as a co-plaintiff.

Affirmed.

/s/ Christopher M. Murray
/s/ Peter D. O'Connell
/s/ Pat M. Donofrio

[1] The estate can no longer sue under the warranty deed because it no longer has title to the property.